

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION

UNITED STATES OF AMERICA,

v.

CRIMINAL ACTION NO. 2:10-cr-00048-2

MICHAEL HARDY,

MEMORANDUM OPINION AND ORDER

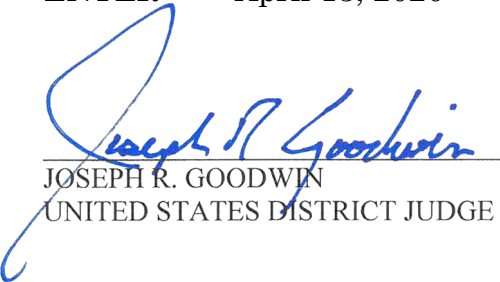
Pending before the court is a Motion for Reduction of Sentence pursuant to the First Step Act filed by the defendant, Michael Hardy. [ECF No. 274].

The First Step Act of 2018 expressly allows courts to modify a term of imprisonment. *United States v. Wirsing*, 943 F.3d 175, 184 (4th Cir. 2019). Section 404 of the First Step Act applies the statutory relief of the Fair Sentencing Act of 2010 retroactively to eligible defendants. In order to be eligible for a reduced sentence under the Act, a defendant must have (1) been sentenced before August 3, 2010 and (2) been convicted of an offense involving crack cocaine under a statute which was amended by the Fair Sentencing Act.

Defendant Hardy was sentenced in 2011, which was after the Fair Sentencing Act went into effect. Accordingly, Defendant Hardy is not eligible to receive a reduced sentence under the First Step Act, and I **DENY** his motion. [ECF No. 274].

The court **DIRECTS** the Clerk to send a copy of this Order to the defendant and counsel, the United States Attorney, the United States Probation Office, and the United States Marshal.

ENTER: April 13, 2020



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE